

In the Matter of)
)
Modernization of Media Regulation) MM Docket No. 17-105

³ See, e.g., Comments of Aaron Reed, MB Docket No. 17-105 (filed May 22, 2017); Comments of Edward A. Schober, PE, MB Docket No. 17-105 (filed July 5, 2017).

While EMF saw many other comments with which it was favorably impressed and which it hopes to have the opportunity to support in future FCC proceedings, these reply comments specifically address two issues raised in various comments in this proceeding. These suggestions raise the real potential for contributing to the degradation of service in the FM band. That band already is very congested, especially in metropolitan areas and especially with the increased use of FM translators and LPFM stations. The proposals noted below would, in EMF's opinion, only add further congestion to the FM band and degrade the quality of FM reception for existing full-service stations.

The Commission initiated this proceeding by inviting comments on rules that "are outdated, unnecessary or unduly burdensome" in order to eliminate "regulatory burdens that can stand in the way of competition and innovation in media markets." EMF submits that the proposals to relax interference protections in the FM band are not proposals dealing with regulatory burdens, but instead substantive engineering considerations that raise fundamental questions of the priorities that the FCC accords to various classes of broadcast operations. This is not a case of rules being outdated or unnecessarily burdensome, but instead questions which materially and directly affect the technical operations of different classes of broadcasters. The Commission should move more slowly in these areas where there are conflicting interests between different classes of broadcasters than in those areas where it is clear that regulatory obstacles burden all broadcasters from competing in today's modern media marketplace.

One of these proposals about which EMF is concerned was advanced by REC Networks.⁴ In its Comments, in the Summary of its arguments, it stated that the "crown jewel" of its proposals was the idea of lessening the protections afforded to full-service stations by LPFM stations by reducing the buffer zones applied in determining the required spacing between LPFM

⁴ See Comments of REC Networks, MB Docket No. 17-105 (filed June 27, 2017) ("REC Comments").

and full-power stations.⁵ While much of REC’s analysis comprises of a review of the statutory history of the LPFM service and questions as to whether the Commission has the authority to lessen the spacing between LPFM and full-power stations, EMF submits that the substance of the proposal is itself of concern. Even with the current required distance spacings between LPFM and full-power stations, many LPFMs already receive interference from full-power stations, decreasing the protected service areas of these stations and increasing the noise on the FM band. Further decreasing the required spacings between full-power and LPFM stations will only entice more LPFMs to try to locate closer to full-power stations, accepting more interference and further degrading the service on the FM band.

Moreover, as even REC acknowledges in its comments, there are already issues of interference from what it refers to as “foothills stations” – LPFMs located in the foothills of taller mountains which decreases their height above *average terrain* but allows them to broadcast from positions high above metropolitan areas, vastly increasing their coverage in certain directions and, in some cases, causing massive predicted interference with existing co-channel full-power stations even when the LPFM is located at a site that is fully spaced. EMF currently has on file a Petition for Reconsideration of an FCC decision finding that co-channel interference is permissible in these situations, even when the LPFM is located at a site that it can use only by getting a second-adjacent channel waiver.⁶ EMF has asked that this reconsideration be treated as a permit-but-disclose proceeding so that all industry stakeholders can weigh in on the issue, as destructive interference to full-power stations should not be permitted by the Commission, especially in a waiver situation. While REC proposes that there be safeguards added to the rules

⁵ REC Comments at 1.

⁶ Educational Media Foundation, Petition for Reconsideration, FCC File No. BNPL-20131114AXZ (filed Apr. 21, 2017). EMF is serving a copy of this pleading on counsel for Razorcake as it could be considered a presentation on the merits of that proceeding.

to eliminate the foothills issue (safeguards that EMF suggests should already be considered by the FCC), these safeguards will no doubt result in many close calls and significant analysis of proposals, and will still likely result in increased interference. These proposed changes are not likely to simplify the rules for the resolution of interference, but instead they will further complicate the processing of LPFM applications.

Similar issues arise with proposals to eliminate entirely third-adjacent channel protections between full-power broadcast stations. These proposals would allow more stations to be squeezed into the FM band. However, in addition to increasing the potential of interference between stations and creating even more noise on the FM band, the elimination of these protections will significantly impact LPFM and FM translator opportunities in many markets. Spacing full-power stations closer to each other will likely disrupt the operations of many of these secondary stations that operate on channels that are third-adjacent to full-power stations when they can demonstrate that no interference will occur (or, in the case of LPFM, by act of Congress). In some major markets, doing away with third-adjacent channel restrictions between full-power stations could result in the loss of virtually all opportunities for LPFM and FM translators for AM stations.

In each of these cases, the FCC should carefully consider whether it wants to disrupt the existing relationship between these classes of broadcasters. Entering into these debates can be a lengthy and difficult process where there are no easy answers or clear paths to reform. The resolution of the priorities between LPFM stations and FM translators (a relationship REC also seeks to reform) took almost a decade to resolve even with the intervention of Congress. EMF submits that there are so many other issues ripe for reform identified in the comments in this

proceeding that these matters raising conflicting interests of different classes of broadcasters are best left for another day.

EMF appreciates the opportunity that the FCC has provided to industry stakeholders to identify rules, policies and procedures that are currently not working, and looks forward to further participating in this proceeding as the Commission begins to take action on the ideas that have been proposed.

Respectfully submitted,

EDUCATIONAL MEDIA FOUNDATION

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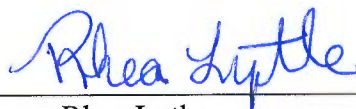
Dated: August 4, 2017

CERTIFICATE OF SERVICE

I, Rhea Lytle, a legal secretary with the law firm of Wilkinson Barker Knauer, LLP, hereby certify that on this 4th day of August 2017, I served copies of the foregoing **"REPLY COMMENTS"** on the following via first-class United States mail, postage prepaid:

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